IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

Crl.Rev.Pet.No. 68 of 2000

CRA.162/1996 of ADDL.SESSIONS COURT, THALASSERY
CC.486/1993 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, KANNUR

.....

REVN. PETITIONER:

V.V. VELAYUDHAN, S/O. KANNAN, VAYAL VEEDU
TRICHAMBARAM, P.O. TALIPARAMBA,
KANNUR DISTRICT.

BY ADV. SRI.A.K.SRINIVASAN

RESPONDENTS:

STATE, REPRESENTED BY HE S.I. OF POLICE,
KANNUR TOWN AND REPRESENTED BY THE STATE
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR MR. KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. NO. 309/2000 IN CRL.R.P.NO.68 OF 2000

DISMISSED

19-3-2007 **SD/-K.R.UDAYABHANU,JUDGE**

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

CRL.R.P.NO.68 of 2000

DATED THIS THE 19th day OF MARCH 2007

ORDER

The revision petitioner stands convicted for the offence under Sections 304(A) and 279 I.P.C. and sentenced to undergo rigorous imprisonment for one year under Section 304(A) and rigorous imprisonment for three months under Section 279 I.P.C. The prosecution case is that on 25-11-1992 at about 12\.15 noon the accused drove bus bearing Reg.No.KRC 4687 in a rash and negligent manner and hit the deceased at Pallikunnu who was walking through Kannur-Taliparamba National Highway. The victim died on the same day.

2. The evidence adduced in the matter consisted of Pws.1 to 9 and Exts.P1 to P9. DW1, the conductor of the bus was examined at the instance of the accused.

3. I find that the consistent version of Pws.1 To 3, i.e. the occurrence witnesses is that the bus was driven at excessive speed. According to Pws.1 and 2, who witnessed the incident, the deceased was walking through the side of the road. PW3 was a passenger and his version was that the bus was driven in over speed. The witnesses have also identified the accused as the driver of the bus. Ext.P3 trip

sheet also showed that the accused was the driver at the relevant time. Th evidence of PW6, the Motor Vehicle Inspector and Ext.P4 report established the fact that the vehicle had no mechanical defect.

In the circumstances, I find no reason to deviate from the concurrent findings of the courts below so far as the conviction of the accused is concerned. Counsel for the revision petitioner has pleaded for leniency pointing out that the incident has taken place in 1992 and so many years have elapsed and so far the accused was facing prosecution and court proceedings. In the circumstances, the sentence imposed under Section 304(A) is modified to imprisonment till the rising of the court and to pay a compensation of Rs.50,000/- to the legal heirs of the deceased vide Section 357(3)Cr.P.C. and in default to undergo simple imprisonment for six months. No separate sentence is to be awarded for the offence under Section 279 I.P.C. The revision petitioner shall appear before the Judicial First Class Magistrate-II, Kannur on 24-4-2007 to receive sentence. The Crl.revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO.68 of 2000

ORDER

19-3-2007